
SENATE BILL No. 111

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5-2-37; IC 3-9.

Synopsis: Political expenditures. Provides that a group of individuals, all of whom are related by blood, marriage, or adoption, is not considered a political action committee. Requires an individual or organization that makes an expenditure of at least \$10,000 for the purpose of financing communications that expressly advocate the election or defeat of a clearly identified candidate to file, not later than 48 hours after the expenditure, a report that provides details concerning the expenditure. Exempts from the reporting requirement: (1) candidate's committees; (2) regular party committees; (3) political action committees; (4) a legislative caucus committee; (5) an auxiliary party organization; (6) a membership organization that is exempt from federal income taxation under Section 501(c) of the Internal Revenue Code, to the extent that the organization's communications are made solely to the organization's members; and (7) an individual who makes an expenditure using only the individual's own resources. Establishes criminal and civil penalties for violation of the reporting requirement.

Effective: January 1, 2008.

Landske, Lawson C

January 8, 2007, read first time and referred to Committee on Local Government and Elections.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 111

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-5-2-37 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JANUARY 1, 2008]: Sec. 37. (a) Except as provided in
3 subsection (b) **or (c)**, "political action committee" means an
4 organization located within or outside Indiana that satisfies all of the
5 following:

- 6 (1) The organization proposes to influence:
7 (A) the election of a candidate for state, legislative, local, or
8 school board office; or
9 (B) the outcome of a public question.
10 (2) The organization accepts contributions or makes expenditures
11 during a calendar year:
12 (A) to influence the election of a candidate for state,
13 legislative, local, or school board office or the outcome of a
14 public question that will appear on the ballot in Indiana; and
15 (B) that in the aggregate exceed one hundred dollars (\$100).
16 (3) The organization is not any of the following:
17 (A) An auxiliary party organization.



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(B) A legislative caucus committee.

(C) A regular party committee.

(D) A candidate's committee.

(b) A corporation or labor organization that makes a contribution in accordance with IC 3-9-2 or makes an expenditure is not considered a political action committee.

(c) A group of individuals, all of whom are related by blood, marriage, or adoption, is not considered a political action committee.

(d) For purposes of subsection (c), an individual is considered to be related to another individual by blood, marriage, or adoption if the individual is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of the other individual as the result of birth, marriage, or adoption.

SECTION 2. IC 3-9-3-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 2.5. (a) This section does not apply to any of the following:

(1) A communication relating to an election to a federal office.

(2) A communication relating to the outcome of a public question.

(3) A communication described by this section in a medium regulated by federal law to the extent that federal law regulates the appearance, content, or placement of the communication in the medium.

(4) Bumper stickers, pins, buttons, pens, and similar small items upon which the disclaimer required by this section cannot be conveniently printed.

(5) Skywriting, water towers, wearing apparel, or other means of displaying an advertisement on which the inclusion of a disclaimer would be impracticable.

(6) Checks, receipts, and similar items of minimal value that do not contain a political message and are used for purely administrative purposes.

(7) A communication by a political action committee organized and controlled by a corporation soliciting contributions to the political action committee by the stockholders, executives, or employees of the corporation and the families of those individuals.

(8) A communication by a political action committee organized and controlled by a labor organization soliciting contributions to the political action committee by the members or executive

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personnel of the labor organization and the families of those individuals.

(9) A direct mailing of one hundred (100) or less substantially similar pieces of mail.

(b) This section applies whenever a person:

(1) makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate; or

(2) solicits a contribution;

through a newspaper, a magazine, an outdoor advertising facility, a poster, a yard sign, a direct mailing, or any other type of general public political advertising.

(c) For purposes of this section, a candidate is clearly identified if any of the following apply:

(1) The name of the candidate involved appears.

(2) A photograph or drawing of the candidate appears.

(3) The identity of the candidate is apparent by unambiguous reference.

(d) A communication described in subsection (b) must contain a disclaimer that appears and is presented in a clear and conspicuous manner to give the reader or observer adequate notice of the identity of persons who paid for and, when required, who authorized the communication. A disclaimer does not comply with this section if the disclaimer is difficult to read or if the placement of the disclaimer is easily overlooked.

(e) A communication that would require a disclaimer if distributed separately must contain the required disclaimer if included in a package of materials.

(f) This subsection does not apply to a communication, such as a billboard, that contains only a front face. The disclaimer need not appear on the front or cover page of the communication if the disclaimer appears within the communication.

(g) Except as provided in subsection (h), a communication described in subsection (b) must satisfy one (1) of the following:

(1) If the communication is paid for and authorized by:

(A) a candidate;

(B) an authorized political committee of a candidate; or

(C) the committee's agents;

the communication must clearly state that the communication has been paid for by the authorized political committee.

(2) If the communication is paid for by other persons but authorized by:

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- 1 (A) a candidate;
 2 (B) an authorized political committee of a candidate; or
 3 (C) the committee's agents;
 4 the communication must clearly state that the communication is
 5 paid for by the other persons and authorized by the authorized
 6 political committee.
 7 (3) If the communication is not authorized by:
 8 (A) a candidate;
 9 (B) an authorized political committee of a candidate; or
 10 (C) the committee's agents;
 11 the communication must clearly state the name of the person who
 12 paid for the communication and state that the communication is
 13 not authorized by any candidate or candidate's committee.
 14 (4) If the communication is a solicitation directed to the general
 15 public on behalf of a political committee that is not a candidate's
 16 committee, the solicitation must clearly state the full name of the
 17 person who paid for the communication.
 18 (h) A communication by a regular party committee consisting of:
 19 (1) a printed slate card, a sample ballot, or other printed listing of
 20 three (3) or more candidates for public office at an election;
 21 (2) campaign materials such as handbills, brochures, posters,
 22 party tabloids or newsletters, and yard signs distributed by
 23 volunteers and used by the regular party committee in connection
 24 with volunteer activities on behalf of any nominee of the party; or
 25 (3) materials distributed by volunteers as part of the regular
 26 party's voter registration or get-out-the-vote efforts;
 27 must clearly state the name of the person who paid for the
 28 communication but is not required to state that the communication is
 29 authorized by any candidate or committee.
 30 **(i) An individual or organization that makes an expenditure for**
 31 **the purpose of financing a communication described in subsection**
 32 **(b) is required to report the expenditure in accordance with**
 33 **IC 3-9-8.**
 34 SECTION 3. IC 3-9-4-16, AS AMENDED BY P.L.221-2005,
 35 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JANUARY 1, 2008]: Sec. 16. (a) In addition to any other penalty
 37 imposed, a person who does any of the following is subject to a civil
 38 penalty under this section:
 39 (1) Fails to file with the election division a report in the manner
 40 required under IC 3-9-5 or IC 3-9-8.
 41 (2) Fails to file a statement of organization required under
 42 IC 3-9-1.

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(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions on the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Violates IC 3-9-2-12.

(12) Fails to designate a contribution as required by IC 3-9-2-5(c).

(13) Violates IC 3-9-3-5.

(14) Serves as a treasurer of a committee in violation of any of the following:

(A) IC 3-9-1-13(1).

(B) IC 3-9-1-13(2).

(C) IC 3-9-1-18.

(15) Fails to comply with section 4(d) of this chapter.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under

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1 this article, the commission shall assess a civil penalty. The penalty is
 2 fifty dollars (\$50) for each day the report or statement is late, with the
 3 afternoon of the final date for filing the report or statement being
 4 calculated as the first day. The civil penalty under this subsection may
 5 not exceed one thousand dollars (\$1,000) plus any investigative costs
 6 incurred and documented by the election division. The civil penalty
 7 limit under this subsection applies to each report separately.

8 (d) This subsection applies to a person who is subject to a civil
 9 penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or
 10 (a)(10). If the commission determines that a person is subject to a civil
 11 penalty under subsection (a), the commission may assess a civil penalty
 12 of not more than one thousand dollars (\$1,000), plus any investigative
 13 costs incurred and documented by the election division.

14 (e) This subsection applies to a person who is subject to a civil
 15 penalty under subsection (a)(5). If the commission determines that a
 16 person is subject to a civil penalty under subsection (a)(5), the
 17 commission may assess a civil penalty of not more than three (3) times
 18 the amount of the contribution in excess of the limit prescribed by
 19 IC 3-9-2-4, plus any investigative costs incurred and documented by
 20 the election division.

21 (f) This subsection applies to a person who is subject to a civil
 22 penalty under subsection (a)(11). If the commission determines that a
 23 candidate or the candidate's committee has violated IC 3-9-2-12, the
 24 commission shall assess a civil penalty equal to the greater of the
 25 following, plus any investigative costs incurred and documented by the
 26 election division:

- 27 (1) Two (2) times the amount of any contributions received.
- 28 (2) One thousand dollars (\$1,000).

29 (g) This subsection applies to a person who is subject to a civil
 30 penalty under subsection (a)(12). If the commission determines that a
 31 corporation or a labor organization has failed to designate a
 32 contribution in violation of IC 3-9-2-5(c), the commission shall assess
 33 a civil penalty equal to the greater of the following, plus any
 34 investigative costs incurred and documented by the election division:

- 35 (1) Two (2) times the amount of the contributions undesignated.
- 36 (2) One thousand dollars (\$1,000).

37 (h) This subsection applies to a person who is subject to a civil
 38 penalty under subsection (a)(13). If the commission determines, by
 39 unanimous vote of the entire membership of the commission, that a
 40 person has violated IC 3-9-3-5, the commission may assess a civil
 41 penalty of not more than five hundred dollars (\$500), plus any
 42 investigative costs incurred and documented by the election division.

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(i) This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(14), the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(j) This subsection applies to a person who is subject to a civil penalty under subsection (a)(15). The commission may assess a civil penalty equal to the costs incurred by the election division for the manual entry of the data contained in the report or statement, plus any investigative costs incurred and documented by the election division.

(k) All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

(l) Proceedings of the commission under this section are subject to IC 4-21.5.

SECTION 4. IC 3-9-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 17. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

(1) Fails to file with a county election board a report in the manner required under IC 3-9-5 **or IC 3-9-8.**

(2) Fails to file a statement of organization required under IC 3-9-1.

(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions in the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

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(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Fails to designate a contribution as required by IC 3-9-2-5(c).

(12) Violates IC 3-9-3-5.

(13) Serves as a treasurer of a committee in violation of any of the following:

(A) IC 3-9-1-13(1).

(B) IC 3-9-1-13(2).

(C) IC 3-9-1-18.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the county election board determines that a person failed to file the report or a statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the county election board may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the county election board determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the board shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the county election board determines that a person is subject to a civil penalty under subsection (a), the board may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the board.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the county election board determines that a person is subject to a civil penalty under subsection (a)(5), the board may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by

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the board.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the county election board determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the board shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the board:

- (1) Two (2) times the amount of the contributions undesignated.
- (2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has violated IC 3-9-3-5, the board may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the board.

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(13), the board may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the board.

(i) All civil penalties collected under this section shall be deposited with the county treasurer to be deposited by the county treasurer in a separate account to be known as the campaign finance enforcement account. The funds in the account are available, with the approval of the county fiscal body, to augment and supplement the funds appropriated for the administration of this article.

(j) Money in the campaign finance enforcement account does not revert to the county general fund at the end of a county fiscal year.

(k) Proceedings of the county election board under this section are subject to IC 4-21.5.

SECTION 5. IC 3-9-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]:

Chapter 8. Reports Required for Certain Campaign Expenditures

Sec. 1. Except as provided in section 2 of this chapter, this chapter applies to an individual or organization:

- (1) that makes a large expenditure; or**
 - (2) on whose behalf a large expenditure is made;**
- for the purpose of financing express advocacy communications**

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1 through a newspaper, a magazine, an outdoor advertising facility,
 2 a poster, a yard sign, a direct mailing, or any other type of general
 3 public political advertising.

4 **Sec. 2. This chapter does not apply to the following:**

- 5 (1) A candidate's committee.
- 6 (2) A regular party committee.
- 7 (3) A political action committee.
- 8 (4) A legislative caucus committee.
- 9 (5) An auxiliary party organization.
- 10 (6) A membership organization that is exempt from federal
- 11 income taxation under Section 501(c) of the Internal Revenue
- 12 Code, to the extent that the organization's express advocacy
- 13 communications are made solely to the organization's
- 14 members.
- 15 (7) An individual who makes an expenditure using only the
- 16 individual's own resources.

17 **Sec. 3. (a) As used in this chapter, "express advocacy**
 18 **communication" means a communication that expressly advocates**
 19 **the election or defeat of a clearly identified candidate.**

20 **(b) For purposes of subsection (a), a candidate is clearly**
 21 **identified if any of the following apply:**

- 22 (1) The name of the candidate involved appears.
- 23 (2) A photograph or drawing of the candidate appears.
- 24 (3) The identity of the candidate is apparent by unambiguous
- 25 reference.

26 **Sec. 4. As used in this chapter, "large expenditure" means:**

- 27 (1) a single expenditure of at least ten thousand dollars
- 28 (\$10,000); or
- 29 (2) expenditures that total at least ten thousand dollars
- 30 (\$10,000).

31 **Sec. 5. (a) An individual or organization that makes a large**
 32 **expenditure described in section 1 of this chapter shall file a report,**
 33 **in a form prescribed by the commission, with:**

- 34 (1) the election division, if the express advocacy
- 35 communication is attempting to influence the election of a
- 36 candidate for state or legislative office; or
- 37 (2) the county election board of each county comprising part
- 38 of the affected election district, if the express advocacy
- 39 communication is attempting to influence the election of a
- 40 candidate for local or school board office.

41 **(b) The report required under subsection (a) must be filed not**
 42 **later than forty-eight (48) hours after a large expenditure under**

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1 this chapter is made.

2 Sec. 6. A report required by section 5 of this chapter must
3 contain the following information for each expenditure reported:

4 (1) The full name, full mailing address, occupation, and
5 principal place of business, if any, of the person making the
6 expenditure.

7 (2) The full name, full mailing address, occupation, and
8 principal place of business, if any, of each person for whom
9 the expenditure was made.

10 (3) The total amount of the expenditure.

11 (4) The date and time the expenditure was made.

12 (5) The office sought by the candidate who is the subject of the
13 communication financed by the expenditure.

14 (6) The full name, full mailing address, occupation, and
15 principal place of business, if any, of each person who
16 contributed or paid at least one hundred dollars (\$100) of the
17 expenditure.

18 (7) The full name and full mailing address of the person filing
19 the report.

20 Sec. 7. Except where a provision conflicts with this chapter or
21 cannot be practicably applied, IC 3-9-4 governs a report filed
22 under this chapter.

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